

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CHEM RX PHARMACY SERVICES, LLC,

Plaintiff,

v.

**6:13-CV-1216
(FJS/ATB)**

**FOLTS HOME doing business as Folts Homes
and FOLTS, INC. doing business as Folts
Homes,**

Defendants.

APPEARANCES

**FULTZ MADDOX
HOVIOUS & DICKENS PLC**
101 South Fifth Street
27th Floor
Louisville, Kentucky 40202
Attorneys for Plaintiff

**HINMAN, HOWARD
& KATTELL, LLP**
700 Security Mutual Building
80 Exchange Street
P.O. Box 5250
Binghamton, New York 13902-5250
Attorneys for Defendants

SCULLIN, Senior Judge

OF COUNSEL

**BENJAMIN C. FULTZ, ESQ.
JENNIFER M. STINNETT, ESQ.
MATTHEW C. WILLIAMS, ESQ.**

**DANIEL R. NORTON, ESQ.
HARVEY D. MERVIS, ESQ.**

ORDER

Based on the parties' Stipulation to Entry of Order of Judgment, filed October 14, 2014,
the Court hereby

ORDERS that Plaintiff shall have judgment against Defendants, jointly and severally, as
to **Counts I and VI** of Plaintiff's First Amended Complaint in the following amounts:

1. **\$250,903.37** in unpaid principal under the Forbearance Agreement and Pharmacy Services Agreements;
2. **\$52,462.86** in pre-judgment interest accrued at the rate of 9% per annum from the date of the Forbearance Agreement until October 1, 2014;
3. Prejudgment interest at the rate of 9% per annum, which is **\$61.87** per day, from October 2, 2014, until the date of entry of this Order;
4. Post-judgment interest pursuant to 28 U.S.C. § 1961 from the date of entry of this Order until the judgment is paid in full;
5. Plaintiff's reasonable attorney's fees and costs incurred in its efforts to collect the foregoing amounts, which total **\$59,185.55** as of September 30, 2014; and
6. Additional reasonable attorney's fees and costs Plaintiff may incur in collecting the amount of this judgment, except that the total amount of all reasonable attorney's fees and costs awarded to Plaintiff shall not exceed **\$75,000.00**; and the Court further

ORDERS that **Counts III, IV and V** of Plaintiff's First Amended Complaint are **DISMISSED on the merits with prejudice**; and the Court further

ORDERS that **Count II** of Plaintiff's First Amended Complaint shall remain pending and all of Defendants' defenses thereto shall also remain pending and that the judgment with respect to Counts I and VI shall not, in any way, prejudice the parties' rights to litigate, in full, Count II of Plaintiff's First Amended Complaint and the defenses that Defendants have asserted thereto; and the Court further

ORDERS that, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Court finds that there is no just reason for delay in the entry of a final judgment with respect to **Counts**

I, III, IV, V, and VI of Plaintiff's First Amended Complaint; and the Court further

ORDERS that the Clerk of the Court shall enter a final judgment with respect to **Counts**

I, III, IV, V and VI of Plaintiff's First Amended Complaint; and the Court further

ORDERS that this case shall be referred to Magistrate Judge Baxter for all further

pretrial matters with respect to **Count II** of Plaintiff's First Amended Complaint.

IT IS SO ORDERED.

Dated: October 20, 2014
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge